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FISCAL IMPACT STATEMENT

LS 7301

BILL NUMBER: HB 1266

NOTE PREPARED: Mar 29, 2011

BILL AMENDED: Mar 24, 2011

SUBJECT: Various Provisions Concerning Courts.

FIRST AUTHOR: Rep. Stemler

FIRST SPONSOR: Sen. Bray

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Commission on Courts Expiration Date* – It changes the expiration date of the Commission on Courts from June 30, 2011, to June 30, 2015.
- B. *Trial Court Jurisdiction* – It provides that all circuit courts, superior courts, and probate courts have: (1) original and concurrent jurisdiction in all civil cases and in all criminal cases; (2) de novo appellate jurisdiction of appeals from city and town courts; and (3) in Marion County, de novo appellate jurisdiction of appeals from township small claims courts. It makes conforming amendments. It repeals the law concerning the establishment and operation of county courts. (Since January 1, 2009, no county court exists in Indiana.) It also makes conforming amendments.
- C. *Mandatory Retirement Age for Superior Court and County Court Judges* – It repeals or otherwise removes all provisions that establish a mandatory retirement age for superior court and county court judges. It makes conforming amendments.
- D. *Clark County* – It establishes a unified circuit court for Clark County by combining the current judge of the Clark Circuit Court and the three judges of the Clark Superior Court into a unified circuit court with four judges. It specifies that the Clark Superior Court judges serving on December 31, 2011, serve as judges of the unified circuit court beginning January 1, 2012. It transfers all cases and other matters pending in the Clark Superior Court at the close of business on December 31, 2011, to the unified circuit court on January 1, 2012. It repeals provisions concerning the establishment and operation of the Clark Superior Court.
- E. *Madison County* – It establishes a unified circuit court for Madison County by combining the current judge of the Madison Circuit Court and the five judges of the Madison Superior Court into a unified circuit court with six judges. It specifies that the Madison Superior Court judges serving on June 30, 2011, serve as judges of the unified circuit courts beginning July 1, 2011. It transfers all

cases and other matters pending in the Madison Superior Court at the close of business on June 30, 2011, to their respective circuit courts on July 1, 2011. It repeals provisions concerning the establishment and operation of the Madison Superior Court.

- F. *Henry County* – It establishes a unified circuit court for Henry County by combining the current judge of the Henry Circuit Court and the two judges of the Henry Superior Court into a unified circuit court with three judges. It specifies that the Henry Superior Court judges serving on June 30, 2011, serve as judges of the unified circuit court beginning July 1, 2011. It transfers all cases and other matters pending in the Henry Superior Court at the close of business on June 30, 2011, to the circuit court on July 1, 2011. It repeals provisions concerning the establishment and operation of the Henry Superior Court.
- G. *Marion County Commissioners* – It specifies that commissioners appointed by either the judge of the Marion County Circuit or Superior Courts continue in office until removed pursuant to procedures specified in local rule. (Current law requires a vote of the majority of the judges of superior court.)
- H. *Lake Superior Court County Division* – It provides for the four judges of the Lake Superior Court county division to be: (1) nominated by the Lake County Superior Court judicial nominating commission and appointed by the governor; and (2) subject to the question of retention or rejection by the Lake County electorate every six years. (Current law provides that the judges of the Lake Superior Court county division are elected by the electorate of Lake County every six years.) It repeals provisions concerning elected judges of the county division. It makes conforming amendments.

Effective Date: June 29, 2011; June 30, 2011; July 1, 2011; December 31, 2011; January 1, 2012.

Explanation of State Expenditures: *Commission on Courts* -- This provision extends the Commission on Courts for an additional four years. The Commission is a 13-member study committee composed of the Chief Justice of the Indiana Supreme Court, eight legislators, one trial court judge, a county commissioner, a member of a county council, and a clerk of a circuit court.

The Commission operates under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members.

Duties of the Commission on Courts include:

- Reviewing and reporting on all requests for new courts or changes in jurisdiction of existing courts.
- Conducting research concerning requests for new courts or changes in jurisdiction of existing courts.
- Conducting public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts.
- Reviewing and reporting on any other matters relating to court administration that the Commission determines appropriate, including court fees, court personnel, salaries, jury selection, and any other issues that relate to the operations of the courts.

(Revised) *Mandatory Retirement Age for Superior Court and County Court Judges* – Since the State Constitution has no mandatory retirement age for circuit court judges, LSA used the average retirement age of circuit court judges as a comparison to determine whether superior court judges, who are required to retire at 70, might tend to retire at a later age.

Age of Judges At Time of Retirement		
	Number	Average
Circuit Judge	63	65.1
Superior Judge	74	65.0
Source: Judges Retirement Fund		

Since no practical difference in the age of the judges at retirement exists, LSA anticipates no change in the payments to beneficiaries of the Judges Retirement Fund.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *Trial Court Jurisdiction* – This provision would affect 255 courts of record in Indiana’s 69 counties that do not have a unified circuit court system. Counties with a large discrepancy in the workload between courts might be able to redistribute their workloads in a more efficient manner. There are courts in 23 other counties that would not be affected by this provision because they either have only one court, have other proposed language in this bill to allow for unification, or already have a unified circuit court system.

	Number of Counties	Counties
Counties with one court <u>not</u> affected by this bill	17	Benton, Brown, Crawford, Fountain, Martin, Ohio, Owen, Parke, Perry, Pike, Spencer, Starke, Switzerland, Tipton, Union, Vermillion, Warren
Counties with More than One Court and No Current Unified System	69	Adams, Allen, Bartholomew, Blackford, Boone, Carroll, Cass, Clay, Clinton, Daviess, Dearborn, Decatur, DeKalb, Dubois, Elkhart, Fayette, Floyd, Franklin, Fulton, Gibson, Grant, Greene, Hamilton, Hancock, Harrison, Hendricks, Howard, Huntington, Jackson, Jasper, Jay, Jefferson, Jennings, Johnson, Knox, Kosciusko, LaGrange, LaPorte, Lawrence, Marion, Marshall, Miami, Montgomery, Morgan, Newton, Noble, Orange, Porter, Posey, Pulaski, Putnam, Randolph, Ripley, Rush, St. Joseph, Scott, Shelby, Steuben, Sullivan, Tippecanoe, Vanderburgh, Vigo, Wabash, Warrick, Washington, Wayne, Wells, White, Whitley
Counties with Unified Court System <u>Not</u> Affected by Bill	2	Monroe, Delaware
Counties with Proposed Unified Court System in Another Part of Bill	4	Clark, Henry, Madison, Lake
Total Counties	92	

Circuit Court Unification for Clark, Henry, and Madison Counties – This bill could, at a minimum, redistribute the workload between the courts in Clark, Henry, and Madison Counties, respectively, depending on the rules and agreements between the judges.

Weighted Caseload Analysis- The following tables show the weighted caseload analysis for each of these three courts in CY 2009 and the number of judicial officers that each court needs to dispose of its workload. The Weighted Caseload Study published by the Indiana Supreme Court's Division of State Court Administration can identify the efficiencies of the current court systems.

This study is based on a methodology that assigns a normative amount of time that each type of case would take to be resolved. Criminal cases, particularly capital murder cases, take the longest amount of time, while disposing infractions and ordinance violation cases takes the least.

Based on the number of filings that each court receives and the average time that each case should require to make a decision, the weighted caseload method can estimate the number of judicial officers needed to decide these cases within this normative framework. The "Need" column represents the number of judicial officers that the court needs to resolve its mixture of cases based on the average number of minutes needed for each case category. The "Have" category represents the number of judicial officers that each court has available. The "Utilization" is simply the "Need" divided by the "Have".

2009 Weighted Caseload Analysis – Clark County			
Court	Need	Have	Utilization
Circuit Court	1.84	1.1	1.7
Superior Court #1	2.58	1.6	1.6
Superior Court #2 (Drug Court)	2.16	1.0	2.2
Superior Court #3	3.63	1.5	2.4
Total for Clark County	10.21	5.2	2.0

2009 Weighted Caseload Analysis – Henry County			
Court	Need	Have	Utilization
Circuit Court	1.85	1.3	1.42
Superior Court #1	1.05	1.25	0.84
Superior Court #2	1.01	1.0	1.01
Total for Henry County	3.91	3.55	1.1

2009 Weighted Caseload Analysis – Madison County			
Court	Need	Have	Utilization
Circuit Court	1.95	1.4	1.4
Superior Court #1	1.98	1.46	1.4
Superior Court #2	3.45	1.6	2.2
Superior Court #3	1.88	1.4	1.3
Superior Court #4	1.52	1.1	1.4
Superior Court #5	1.60	1.1	1.5
Total for Madison County	12.38	8.06	1.5

The average utilization rate per court in Indiana in 2009 was 1.35.

Marion County Commissioners – There are 24 court commissioners in the Marion Circuit and Superior Court system who are appointed by the circuit and superior courts in Marion County. This would not likely affect local expenditures.

Lake County – Lake County Superior Court Judicial Nominating Commission – New expenditures should be minimal for Lake County since the judges of the 12 other superior courts in Lake County are already selected through the existing Lake County Judicial Nominating Commission. The members of the commission are not paid, but can be reimbursed for actual expenses incurred in performing their duties.

Workload Distribution – Under current law, the superior courts can establish rules to alter the number of judges assigned to the civil and criminal divisions but not to the county division. This bill would permit courts to also be assigned to the county division of the superior court or for judges from the county division to be assigned to either the criminal or civil divisions as well.

The Indiana Supreme Court's weighted caseload methodology compares each court's estimated workload with its judicial officers through a ratio, called the utilization rate. The utilization rates of Lake County courts shown below are based on CY 2009 filings. Their utilization rates range from 39% below the statewide average of 1.35 to 15% above the state average. Death penalty cases were filed in three of the criminal courts, explaining the reason for lower utilization rates in those courts.

Court Name	Need	Have	Utilization	Percent Above and Below State Average
Lake Circuit	4.91	3.40	1.45	107%
Lake Superior , Civ. 1	1.02	1.20	0.85	63%
Lake Superior , Civ. 2	1.70	1.20	1.42	105%
Lake Superior , Civ. 3	2.56	3.00	0.85	63%
Lake Superior , Civ. 4	1.02	1.20	0.85	63%
Lake Superior , Civ. 5	0.82	1.00	0.82	61%
Lake Superior , Juv. Div.	10.07	6.50	1.55	115%
Lake Superior , County 1	2.79	2.00	1.4	104%
Lake Superior , County 2	3.74	2.80	1.34	99%
Lake Superior , County 3	3.46	2.60	1.33	99%
Lake Superior , Civ. 6	0.98	1.00	0.98	73%
Lake Superior , Civ. 7	0.99	1.00	0.99	73%
Lake Superior , County 4	2.16	1.40	1.55	115%
Lake Superior , Crim. 1	1.46	1.30	1.13	84%
Lake Superior , Crim. 2	1.44	1.30	1.11	82%
Lake Superior , Crim. 3	1.50	1.30	1.16	86%
Lake Superior , Crim. 4	1.49	1.30	1.14	84%
Statewide	597.59	442.15	1.35 *	100%
* Statewide Utilization is an average. Statewide "Need" and "Have" figures represent statewide totals.				

Explanation of Local Revenues:

State Agencies Affected: Judges Retirement Fund.

Local Agencies Affected: Trial courts in Clark, Henry, and Madison Counties; Lake County Judicial Nominating Commission, Lake Superior Courts; Marion County Circuit and Superior Courts.

Information Sources: Division of State Court Administration, Indiana Supreme Court; Allison Murphy, Public Employees Retirement Fund; IC 33-33-45-27; *Indiana Judicial Report 2009*.

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